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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,936	12/19/2001	Uri Alon	ALON=2	2874

1444 7590 07/17/2003

BROWDY AND NEIMARK, P.L.L.C.  
624 NINTH STREET, NW  
SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER

EREZO, DARWIN P

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/020,936

Applicant(s)

ALON ET AL.

Examiner

Darwin P. Erez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. In Claim 2, the Applicant is required to clarify to what the claim is intended to be drawn to, i.e., either the respirator hood assembly alone or the combination of the respirator hood assembly and the container. The Applicant sets forth the combination of the respiratory hood assembly and the container when describing that the container is part of an activating mechanism, which is inconsistent with Claim 1, that sets forth the subcombination of the respiratory hood assembly is designed to be compactly received in a container. Applicant is required to make the language of the claims consistent with the intent of the claims. It should also be noted that in considering the claims on the merits, the Examiner will consider the claims as drawn to the combination.

4. Regarding claim 20, the word "means" is preceded by the word(s) "mechanical" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as

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required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 10-16 and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,113,854 to Dosch et al. in view of US 5,413,097 to Birenheide et al.

7. As to claim 1, Dosch teaches a respirator hood comprising a flexible hood **12** with a transparent visor portion; a gas treatment unit comprising a filter **20** and an oxygen generator **22** to force air through the filter, a one-way purge valve **42** for exhaled gases; and a sealing portion **14** for sealingly securing the hood over a body portion of the user; the respirator hood assembly is designed to be compactly received in a container **58** and to be deployed into an operative state automatically (through firing lanyard **62**).

Birenheide teaches a respiratory device comprising a gas treatment unit having a filter **3** and a power-operated gas blower **41**.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the oxygen generator of Dosch with the power-

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operated gas blower of Birenheide because it provides the user with breathable air for a longer period of time since it is not dependent on chemical reactions to provide oxygen.

8. As to claim 2, Dosch teaches the container as being part of the activating mechanism (col. 4, lines 17-43).

9. As to claim 3, Dosch teaches a neck-engaging collar **14**.

10. As to claim 4, Dosch teaches the sealing portion designed to easily stretch over the head of the user and sealingly fit around the neck of the user.

11. As to claims 5 and 6, Dosch teaches a sealing portion that extends over a user's torso (see Fig. 6).

12. As to claim 7, Dosch teaches a hood suitable for use with an animal.

13. As to claim 8, the above combination of Dosch/Birenheide teaches a detachable member, the firing lanyard **62**, which activates the power-operated blower.

14. As to claim 10, Dosch teaches the container having front and rear cover, wherein the rear cover is attached via the lanyard **62** to the gas treatment unit.

15. As to claim 11, Dosch teaches the respiratory hood assembly within the container.

16. As to claim 12, Dosch teaches the container having a handle (See Fig. 2).

17. As to claim 13, Dosch teaches the assembly having an operative state and a storage state.

18. As to claim 14, Dosch teaches a rigid container, as depicted in Fig. 2.

19. As to claim 15, Dosch teaches a firing lanyard **62** that activates the gas treatment unit.

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20. As to claim 16, Dosch teaches the firing lanyard **62** attached to the container.
21. As to claims 18 and 19, Dosch teaches a hood that protects from toxic gases.
22. As to claim 20, Dosch teaches the activation of the gas treatment being automatic by a mechanical means.
23. As to claims 21 and 22, Dosch teaches the assembly capable of being carried in a purse or briefcase.
24. As to claim 23-26, Dosch teaches an assembly that can be used with both children and adults regardless of facial features.
25. As to claim 27, Dosch teaches the gas treatment unit fixed to the respiratory hood.
26. As to claim 28, Dosch teaches a gas treatment unit that forces air into the hood.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darwin P. Erezzo whose telephone number is (703) 605-0420. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications..

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

dpe  
July 12, 2003

A handwritten signature in black ink, appearing to read 'Weilun Lo', with a stylized, cursive script.

WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700